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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,094	11/17/2003	Vickie J. Cusimano	COURT.STD	9491

7590 05/16/2005
Glen F. Gallinger
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Colorado Springs, CO 80920

EXAMINER

CHIU, RALEIGH W

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,094

Applicant(s)

CUSIMANO ET AL.

Examiner

Raleigh Chiu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 11-14 and 17 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8-10, 15, 16 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The drawings were received on 22 February 2005. These drawings are acceptable.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Wright as previously applied and further in view of U.S. Patent Number 5,242,174 (Koole).

Regarding claims 1 and 11, Figure 1 of Lee shows an embedded upright floor tube C with a contained tube A. Lee only fails to show a releasable lock means. However, it would have been obvious to put a releasable lock on the Lee net support in view of Wright who teaches at page 1, lines 63-66 and Figures 1-2 that such a construction allows a user to adjust the height of the net. Although neither Lee nor Wright discloses the use of an embedded floor tube with sufficient internal capacity to house the contained tube wholly below the floor, it would have been obvious to one of ordinary skill in the art to do so in

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view of Koole who teaches exactly such a concept of storing the game posts in the ground when the game is not being played. See Koole at Figure 1 and column 1, lines 15-20.

Regarding claim 3, the number of telescoping tubes is not considered to be critical; it would have been obvious to provide a plurality of telescoping tubes since it has generally been recognized that the addition of multiple parts for multiple effect involves only routine skill in the art. Moreover, the telescoping arrangement of the Koole posts when nested below the ground would allow the tubes to be lifted as recited.

With further regard to claim 11, the recited steps of erecting the modified Lee device are considered to naturally performed when using the device; further, the modified Lee device is considered to be inherently capable of being used with a gymnasium floor.

Regarding claim 14, Koole discloses the concept of providing a cover to access the game posts. See Koole at column 3, lines 57-60.

4. Claims 2, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, Wright and Koole as applied above in view of Schoenig as previously applied.

Regarding claims 2 and 12, although Lee only shows a collar, Schoenig teaches that split collars are old and well-

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known in the art for adjusting the height of the net. See Schoenig at column 2, lines 28-33.

Regarding claim 13, the number of telescoping tubes is not considered to be critical; it would have been obvious to provide a plurality of telescoping tubes since it has generally been recognized that the addition of multiple parts for multiple effect involves only routine skill in the art.

5. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, Wright and Koole as applied above in view of Pardi as previously applied.

Regarding claims 7 and 17, it would have been obvious to one of ordinary skill in the art to provide a winch and pulley with the Lee device as modified above in view of Pardi who teaches that it is old and well-known in the sporting net art to tension nets with a winch and pulley system. See Figure 1 of Pardi.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3, 11 and 13 have been considered but are moot in view of the new ground(s) of rejection.

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Allowable Subject Matter

7. Claims 4-6, 8-10, 15, 16 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

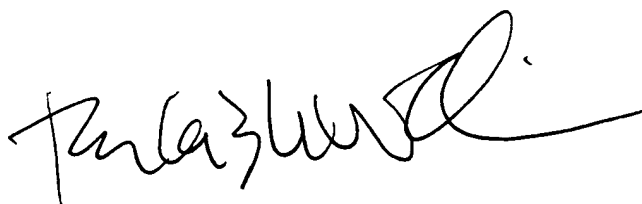
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
12 May 2005